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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/879,151	06/13/2001	Anders Stenberg	010315-104	4114

7590 12/04/2008
Ronald L. Grudziecki
BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P.O. Box 1404
Alexandria, VA 22313-1404

EXAMINER

ANDERSON, CATHARINE L

ART UNIT	PAPER NUMBER
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3761

MAIL DATE	DELIVERY MODE
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12/04/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/879,151	Applicant(s) STENBERG, ANDERS	
	Examiner Lynne Anderson	Art Unit 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,5-11,19-25,44 and 45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5-11,19-25,44 and 45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 16 October 2008 has been entered.

Response to Arguments

2. Applicant's arguments filed 16 October 2008 have been fully considered but they are not persuasive.

3. In response to the applicant's argument that Cammarota fails to disclose an indicia that provides an indication of the size or absorption capacity of the article, it is noted that the indicia of the claimed articles is considered printed matter, and where no new and unobvious functional relationship between the printed matter and the article exists, the printed matter will not distinguish the invention from the prior art in terms of patentability (see MPEP 2112.01(III)). Therefore, the indicia providing an indication of the size or absorption capacity does not distinguish over the article of Cammarota.

4. In response to the applicant's argument that the graphics of Cammarota do not constitute indicia, it is noted that the graphics of Cammarota constitute printed matter, and since the printed matter of the claimed invention does not provide a new and

unobvious functional relationship between the printed matter and the article, the claimed indicia do not distinguish over the graphics of Cammarota.

5. In response to the applicant's argument that the strip portion of Cammarota does not facilitate in the identification of the location of the wetness indicator, it is noted that the wetness indicator is located on the outer surface 30 (i.e. the strip part) of the article of Cammarota. Therefore, locating the outer surface of the article facilitates location of the wetness indicator. The present claims merely disclose that identification of the location of the wetness indicator is facilitated by the strip part, but do not disclose any way in which the strip part facilitates identification of the location of the wetness indicator. Considering the broad disclosure of the present claims, the strip part of Cammarota anticipates the claimed limitations.

Claim Rejections - 35 USC § 102

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claims 1-2, 5-11, and 19-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Cammarota et al. (6,307,119).

8. With respect to claim 1, Cammarota discloses an absorbent article comprising a liquid pervious topsheet 42, a liquid impervious backsheet 40, and an absorbent body 44. The backsheet 40 comprises a strip part 30 and a remaining part 34, as shown in figure 1. The strip part 30 comprises graphics having a color that is different from the color of the remaining part 34, as shown in figure 1. A wetness indicator 66 is arranged inside of the backsheet 40 in a pattern, as shown in figure 1 and described in column

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21, lines 41-46. The wetness indicator 66 is disposed on the strip part 30, and facilitated by the strip part 30 having a different color than the remaining part 34 of the backsheet. Since the printed matter of the claimed invention does not provide a new and unobvious functional relationship between the printed matter and the article, the claimed indicia do not distinguish over the graphics of Cammarota, and the graphics of Cammarota anticipate the claimed indicia.

9. With respect to claim 2, the strip part 30 may comprise a separate strip of material 114 of the backsheet 40, as shown in figure 9B.

10. With respect to claims 5 and 19, the strip part 30 extends the entire length of the article, as shown in figure 2.

11. With respect to claims 6 and 20, the strip part 30 extends in the transverse direction of the article, which is intended to be folded in half at a part of the article that includes the strip part 30, as shown in figure 1.

12. With respect to claims 7, 10-11, 21, and 24-25, the strip part is between 6 and 10 cm in width, as disclosed in column 11, lines 10-13.

13. With respect to claims 8 and 22, the article comprises printed symbols, as shown in figure 1, which indicate the product type as a wetness-indicating diaper.

14. With respect to claims 9 and 23, the article is a diaper.

Claim Rejections - 35 USC § 103

15. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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16. Claims 44 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cammarota et al. (6,307,119) in view of Miller (5,839,585).

17. Cammarota discloses all aspects of the claimed invention with the exception of the articles being packaged as a plurality of articles of at least two different sizes. Miller teaches the packaging of absorbent articles of at least two different sizes or types to provide the user with a choice of products, as disclosed in column 2, lines 17-21. It would therefore be obvious to one of ordinary skill in the art at the time of invention to provide the absorbent articles of Cammarota in a package including a plurality of articles of at least two different sizes or types, as taught by Miller, to provide the user with a choice of products.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynne Anderson whose telephone number is (571)272-4932. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/L. A./

Examiner, Art Unit 3761

/Tatyana Zalukaeva/

Supervisory Patent Examiner, Art Unit 3761